

March 12, 1998

**REPORTING REQUIREMENTS FOR THE PRIVACY ACT REPORT
FOR CALENDAR YEAR 1997 (RCS 72-0601)**

1. **PURPOSE:** This Veterans Health Administration (VHA) Directive provides the requirements and format for reporting statistical data for calendar year 1997 that will be used to compile the Department's biennial Privacy Act Report for calendar years 1996 and 1997.
2. **BACKGROUND:** The Privacy Act of 1974 (Title 5, United States Code (U.S.C.), Section 552a) requires the Department of Veterans Affairs (VA) and all Federal Agencies to submit to the Office of Management and Budget (OMB) information for inclusion in the President's Biennial Privacy Act Report to Congress. Information on systems of records and changes made to those systems during the report period, statistical data on requests for access to or amendment of records by individuals, and other information about the administration of the Act are included. Basic requirements for the report are contained in Appendix 1 to OMB Circular A-130 (Revised), "Management of Federal Information Resources, dated June 25, 1993. OMB issues supplemental instructions by separate memorandum, as needed.
3. **POLICY:** Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988, amended the Privacy Act and changed the reporting requirement timeframe from an annual to a biennial report. VA's Assistant Secretary for Management (004) continues the requirement to collect this statistical data from VA components on an annual basis.
4. **ACTION:** Requests from individuals for access or amendment of agency records about themselves should be counted and reported. Access to records includes a request to view a record or a request for copies of the record. These records must be maintained in a Privacy Act system of records, such as the Consolidated Health Record (Patient Medical Records - 24VA136) or the Official Personnel File (OPM/GOVT-1). For example, in a request for medical treatment records, the individual making the request need not cite the Privacy Act as the basis for the request, but the request must be from the patient or the guardian on behalf of the patient, or the request may be from someone who has a written consent from the patient such as a family member or an attorney. The request may come in the form of a VA Form 70-3288 "Request for and Consent to Release of Information from Claimants Records" or a VA Form 10-5345 "Request for and Consent to Release of Medical Records Protected by 38 U.S.C. 7332." Include requests from insurers who received patient consent via the VA Form 10-10, Application for Medical Care. Third-party requests under the Freedom of Information Act (FOIA) and disclosures that are made pursuant to a Privacy Act system of records routine use statement should not be reported. Information for the following items a. through c. should be compiled and reported in accordance with paragraph 4(d):

a. **Requests by individuals for access to their records**

THIS VHA DIRECTIVE EXPIRES ON MAY 30, 1998

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- (1) Total number of requests for access.
 - (2) Number of requests granted in whole.
 - (3) Number of requests granted in part.
 - (4) Number of requests denied in full.
 - (5) Number of requests for which no record was found.
- NOTE:** The total on item (1) must be equal to (2) + (3) + (4) + (5).

b. Requests by individuals for amendment of their records

- (1) Total number of requests for amendment.
- (2) Number of requests granted in whole.
- (3) Number of requests granted in part.
- (4) Number of requests denied in full.

NOTE: The total on item (1) must be equal to (2) + (3) + (4).

c. **Contact Person.** Provide the name, position title, and phone number of the individual who can respond to questions about the report.

d. **How to report.** The report, with a cover memorandum signed by the facility Director, is due no later than May 1, 1998. The report should be submitted on plain bond paper. Negative reports are not acceptable from VA medical centers. Reports may be faxed or mailed to: FOIA/Privacy Act Officer (193B2), VHA Headquarters, 810 Vermont Avenue, NW, Washington, DC 20420, fax number (202) 273-9609.

5. REFERENCES

- a. VA Manual M-1, Part I, Chapter 9.
- b. Appendix 1 to OMB Circular A-130.
- c. Title 38, Code of Federal Regulations, Sections 1.575 – 1.584.
- d. Title 5 U.S.C. 552a.

6. **FOLLOW-UP RESPONSIBILITY:** Celia Winter, FOIA/Privacy Act Officer (193B2), Veterans Health Administration, (202) 273-6274.

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7. **RESCISSION**: This Directive will expire on May 30, 1998.

Kenneth W. Kizer, M.D., M.P.H.
Under Secretary for Health

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